

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

ERIC BARKER,

Petitioner,

v.

**Civil Action No. 1:06cv162
Criminal Action No. 1:04cr86
(Judge Keeley)**

UNITED STATES OF AMERICA,

Respondent.

ROSEBORO NOTICE

On August 6, 2007, the respondent filed a Motion to Dismiss Petitioner's § 2255 petition as untimely. Because the petitioner is proceeding *pro se*, the Court has a mandatory duty to advise him of his right to file responsive material, and to alert him to the fact that the failure to so respond may result in the entry of an order of dismissal against him. Davis v. Zahradrich, 600 F.2d 458, 460 (4th Cir. 1979); Roseboro v. Garrison, 528 F.2d 309, 310 (4th Cir. 1975). Petitioner is so advised.

Accordingly, within **thirty (30) days** of entry of this Order, the petitioner shall file any opposition explaining why his case should not be dismissed. Further, the petitioner is reminded of his obligation to serve the respondent with any response he files.

IT IS SO ORDERED.

The Clerk is directed to send a copy of this Order to the *pro se* petitioner by certified mail, return receipt requested, to his last known address as shown on the docket. The Clerk is further directed to provide copies of this Order to all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the

Northern District of West Virginia.

DATED: August 9, 2007.

/s *John S. Kaull*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE